



FAIR POLITICAL PRACTICES COMMISSION

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March 8, 2010

Stephen J. Kaufman
The Kaufman Legal Group
o/b/o The People for Larry Russell, Ph.D. and Larry Russell, Ph.D.

REDACTED

RE: Warning Letter ✓
FPPC Case No. 05/166: The People for Larry Russell, Ph.D., and Larry Russell, Ph.D.

Dear Mr. Kaufman:

The Fair Political Practices Commission ("Commission") enforces the provisions of the Political Reform Act (the "Act") found in Government Code Section 81000, and following. As you may be aware, the Enforcement Division of the Commission has been investigating a complaint received regarding whether The People for Larry Russell, Ph.D. Committee ("Russell Committee") and Larry Russell, Ph.D. violated the Act by failing to properly report contributions.

The Commission has completed its investigation into this case. The investigation revealed that contributions were made at the behest of Mr. Russell to outside vendors which were not reported on the campaign statements. For instance, a payment was made at the behest of Mr. Russell to The Pericles Group during Mr. Russell's 2004 campaign for Marin Municipal Water Board as a loan from Frank Torres Gonzalez. This loan was not reported as a contribution on the Russell Committee's campaign statements. In addition, the repayment of the loan by one of Mr. Russell's employees, Mr. William Zane Foy, was also not reported. In addition, the investigation also revealed that during the 2004 campaign, Mr. Marc O'Hara, a campaign consultant of the Russell Committee, coordinated the production of a mailer by a general purpose committee, California Alliance for Renewable Energy Sources, which advocated the defeat of Mr. Russell's opponent. This coordination made the expenditures for the mailer by the general purpose committee a contribution to the Russell Committee; however, the contribution was not reported as a contribution by either committee.

The Act requires that all contributions received and expenditures made be reported on the appropriate campaign statement. (Section 84211.) Section 82015, subdivision (b)(1) defines a contribution as a payment that is made at the behest of a committee unless full and adequate consideration is received from the committee for making the payment. An independent

expenditure, as defined by Section 82031, is an expenditure made by any person in connection with a communication which expressly advocates the election or defeat of a clearly identified candidate which is not made to or at the behest of the affected candidate or committee. However, after a review of the facts and evidence produced by the investigation, and because the age of these violations precludes commencing with prosecution, the Commission has decided to close this case with this warning letter.

This letter serves as a written warning. The information in this matter will be retained and may be considered should an enforcement action become necessary based on newly-discovered information or future conduct. Failure to comply with the provisions of the Act in the future could result in monetary penalties up to \$5,000 per violation.

A warning letter is a Commission resolution without administrative prosecution or fine. However, the warning letter resolution does not provide you with the opportunity for a probable cause hearing or hearing before an Administrative Law Judge or the Commission. If you wish to avail yourself of these proceedings by requesting that your case proceed with prosecution rather than a warning, please notify us within ten (10) days from the date of this letter. Upon this notification, the Commission will rescind this warning letter and proceed with administrative prosecution of this case. If we do not receive such notification, this warning letter will be posted on the Commission's website ten (10) days from the date of this letter.

If you have any questions regarding this matter, please feel free to contact me at 916-322-5660.

Sincerely,

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✓ Galena West
Senior Commission Counsel
Enforcement Division